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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/719,344

11/21/2003

William A. Taylor

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12/23/2009

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EXAMINER

THOMAS, ERIC M

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

12/23/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/719,344	<b>Applicant(s)</b> TAYLOR, WILLIAM A.	
	<b>Examiner</b> Eric M. Thomas	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-11, 14-16 and 18-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11, 14-16, and 18-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

This is in response to the amendments filed on 4/1/09. Claims 1 – 3, 5 – 11, 14 – 16, and 18 - 32 are pending in the current application.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**2. Claims 1 – 3, 5 – 11, 14 – 16, 18 - 22, and 27 – 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,077,163) in view of Seelig et al. (U.S. 2003/0069060) and in further view of the game “Press Your Luck”.**

Regarding claims 1 - 3, 11, 16, 21, 22, and 27 – 30, Walker provides a method and apparatus for operating a gaming device having a flat rate play session costing a flat rate price, (abstract), wherein the flat rate play session is defined as a period of play wherein the player need not make funds available for any play during the play session, wherein the play session spans multiple plays of the gaming device, wherein the play session is to be understood as time, handle pulls, and any other segment in which the slot machine play could be divided, wherein an example of this maybe two hours, wherein prior to game play, the player selects a price parameter in combination with operator price parameters, and determines the flat rate price, wherein Walker provides

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an example of this that discloses, it might cost twenty-five dollars to play for half an hour (col. 3, lines 5 – 30). The examiner views this as a method of providing a variable period of play on a gaming device, wherein the gaming device receives a single wager, wherein the single wager provides a player a plurality of plays of a single game. Walker further discloses on fig. 2b, a plan view of the gaming device, which displays player selected price parameter options that includes amount wagered per play, the duration of the time interval, and the flat rate price, (fig. 2b), wherein the examiner views the duration of interval, (part 722), as maintaining a count of the plays/time left of the single game, but Walker is silent on the issue of the gaming device including game-extension and game-termination symbols. In a related art, however, Seelig provides a gaming device that is adapted to allow players to play a wagering game, wherein the gaming device may utilize reels or a video display to display the outcomes of the game, (par. 0059), wherein as shown in figs. 22 and 23, Seelig further discloses a bonus game may be a board game of the game show “Press Your Luck”, wherein the board game is divided up into a number of different segments or positions, wherein during the bonus game, each such position may be intermittently or randomly back-lit in order to indicate or emphasize the various different positions to the player, (par. 0126), wherein the gaming machine randomly illuminates one position, then another, etc., wherein the indicated positions thus appear to jump from one particular position to another until a game board button is pressed by the player, which terminates the random lighting of the various positions, (par. 0127 and par. 128), wherein the gaming machine selects one particular position and lights only that position, wherein the player can then see that this

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lighted position indicates the award to be awarded to the player, (par. 0129), wherein the attached NPL further describes the rules and awards that are included in "Press Your Luck", wherein the game includes two rounds, wherein first round comprises questions that would be asked to the players, wherein the more correct answers the player answers, the more spins that player receives for the next round, wherein the next round includes a plurality of awards and symbols, wherein one main symbol is called a "whammy", wherein if player gets a whammy, he/she would lose any and all cash and prizes he/she won up to that point, wherein the amount a whammies and kept track for each player because if a player gets a predetermined amount of whammies, the player is disqualified, (pgs. 2 and 3 of second attached NPL), wherein the examiner views the "whammy" as a game termination symbol. "Press Your Luck" further includes another symbol, wherein the player may receive an award/prize and an extra or free spin, (bottom of pg. 1 of first attached NPL), wherein the examiner views the extra/free spin as a game-extension symbol. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Seelig and "Press Your Luck" into the art disclosed by Walker in order to increase player excitement while playing the gaming machine.

Regarding claims 5 – 10 and 20, Walker provides a method of playing a gaming machine, but is silent on the issue of including game - termination symbols that is related to a sports or ship theme, however, as stated above, Seelig and the game show "Press Your Luck" but instead discloses a board game theme that discloses game-termination symbols. At the time the invention was made, it would have been an

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obvious matter of design choice to a person of ordinary skill in the art to use American football or any kind of theme instead of the board game theme used by Seelig because the Applicant has not disclosed that using a sports' theme provides an advantage or solves a stated problem. Therefore, it would have been prima facie obvious to modify Walker or Seelig because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Walker in view of Seelig. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include the game – termination symbols relating to sports or ship theme into the art disclosed by Walker in view of Seelig in order to increase player excitement while playing the gaming machine.

Regarding claims 14, 18, 19, and 21, Walker provides a method and apparatus for operating a gaming device having a flat rate play session costing a flat rate price, but is silent on the issue of including game-extension symbols. As stated above, Seelig discloses a bonus game may be a board game of the game show “Press Your Luck”, wherein “Press Your Luck” includes a symbol, wherein the player may receive an award/prize and an extra or free spin, (bottom of pg. 1 of first attached NPL), wherein the examiner views the extra/free spin as a game-extension symbol. The examiner views this as meeting the limitation of an appearance of a game-extension symbol being dictated by data selectively entered by the player. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Seelig and “Press Your Luck” into the art disclosed by Walker in order to increase player excitement while playing the gaming machine.

Regarding claim 15, Walker provides a method and apparatus for operating a gaming device having a flat rate play session costing a flat rate price, (abstract), wherein as shown in fig. 2b, the gaming device is a slot machine.

**3. Claims 23 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,077,163) in view of Seelig et al. (U.S. 2003/0069060) and of the game “Press Your Luck”, as applied to claim 22 above, and further in view of Slomiany (U.S. 6,612,927).**

Regarding claims 23 – 26, Walker provides a method and apparatus for operating a gaming device having a flat rate play session costing a flat rate price, that includes a payout table, (col. 4, lines 15 – 18), but is silent on the issue of altering the pay-table between plays. In a related art, however, Slomiany provides a method of playing a gaming machine that alters the pay-table randomly and is affected by an event that occurs in the game (col. 45, lines 11 – 30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include the teachings of Slomiany in the art disclosed by Englman in order to alter the pay-table of a gaming machine depending on the outcome of a win or loss.

**4. Claims 31 and 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,077,163) in view of Seelig et al. (U.S. 2003/0069060) and of the game “Press Your Luck”, as applied to claims 1 and 22 above, and further in view of Englman (U.S. 2003/0157978).**

Regarding claims 31 and 32, Walker provides a method and apparatus for operating a gaming device having a flat rate play session costing a flat rate price, but is

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silent of the issue of displaying a special symbol and conducting a secondary game. In a related art, however, Englman provides a method of playing a gaming machine that displays a special symbol, wherein a characteristic of the special symbol is used in a secondary or bonus game (par. 0034), wherein Englman further discloses that at the conclusion of the purchased series of plays, a bonus, "Power Play," is awarded to the player (par. 0053). The examiner views this as a secondary game occurring when the count reaches zero. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Englman into the art disclosed by Walker in order to increase player excitement while playing the gaming machine.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1 - 32 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Thomas whose telephone number is (571) 272-1699. The examiner can normally be reached on 7a.m. - 3p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/  
Primary Examiner, Art Unit 3714